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History and Implications of a Plan to provide water and wastewater service to El Paso County residents – Colonias in El Paso County.

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Background

There are different meanings for the term ‘colonia’ along the US/Mexico border. In Spanish a colonia refers to an upper-class neighborhood. In English the term refers to impoverished habitations populated principally by Mexican-Americans. (*Davies and Holz, 1992*).

El Paso County has majority-minority community attributes, which is a relatively rare type of community within the U.S. (*Johnson et al., 2003*) The El Paso County region (referring to areas outside the Corporate limits of the City of El Paso) is and has been unlike many other County in the U.S. in the sense that County land does not contain a great deal of the needed infrastructure, and thus certain residents have been unable to receive water and/or wastewater service. Although colonias are scattered all along the U.S. side of the US/Mexico border, they are primarily a Texas phenomenon and its distribution is a reflection of the spatial requirements of the capitalist mode of production, in which cities are the loci of manufacturing and accumulation. (*Davies and Holz, 1992*). Olmstead, 2004 continues discussing that colonias work to the economic advantage of the city since they contain an army of labor that stands ready to serve. (*Olmstead, 2004*).

At the time of performing a literature review, the number of colonia residents in El Paso County was not easily identified, that gives us an idea that there is little known or written about colonias; and different sectors of society have their own numbers, statistics, parameters, and appreciation of colonias that makes it more difficult to develop solutions to problems within colonias. Olmstead, 2004 states that according to the Texas Water Development Board, (TWDB, 1996) around 20% of the population living along the Texas border reside in colonias and about 20% of them (357,000 colonias residents total) were not connected to central drinking water systems. Other authors as Carew and Ward, 2000, mention that there are 1,500 colonias, housing 400,000 people on the border region with Mexico. Holz and Davies, 1992, mention that “between El Paso and Brownsville, Texas some 972 colonias house an estimated 139,873 residents” (Holz and Davies, 1992).

Residents generally seeking to own a piece of the American dream have been actively in search of purchasing a small piece of property they can call their own. The majority of the colonia residents see a colonia home as if they “own” a piece of America, whether accompanied by utilities or not. (*Davies and Holz, 1992*).

Most residents are aware of the lack of infrastructure and the cost associated with extending water lines to their chosen property. However, a resident’s desire to construct a home on a piece of property they can call their own does not dissuade them from making such a purchase. The lack of affordable housing within the City of El Paso has always been another reason many prospective homebuyers prefer to live outside the City limits.

Developers were historically able to sell a piece of property on a contract for sale, meaning without going through a title company to guarantee the title to a piece of property and thus

without any type of written disclosure that would guarantee that a given property was sold based on a registered survey, covenants (if any), and any other legal type of documentation. In order to sell lots in unserved settlements, developers have been well served by the Contract for Deed arrangement. This is a legal, yet highly flexible mechanism for the conveyance of real estate or other commodity in which full ownership (title) is not transferred until the purchase price has been paid in full (*Mettling, 1982 in Carew and Ward, 2001*). In the late eighty's, much of the property in El Paso County lacked the necessary infrastructure. However, land continued to be bought and sold at what were considered reasonable prices.

The population continued to grow and the need for infrastructure also created conditions that were considered less than ideal. Health conditions began to deteriorate within many outlying areas because of the need for water. Cholera and Hepatitis outbreaks were not uncommon within El Paso County. As conditions worsened, residents feared that unless they took action to obtain the necessary infrastructure for their property, their future was certain to continue to exist without needed water, wastewater, and other services.

Pleas for assistance from the local, state, and federal government went noticed and many residents decided to form what were considered water districts, corporations, or other private entities in hopes of being able to obtain public/private funding. Olmstead, 2004, cites that universal water service coverage is not required by law, even within a defined Certificate of Convenience and Necessity (CCN) from the Texas Commission on Environmental Quality (TECQ). This system fosters a limited degree of competition among water service providers (*Olmstead, 2004*). Thus, the creation of water districts had begun and local and county governments took little action to prevent the creation of governing bodies aimed at getting into the water business.

El Paso Water Utilities - Public Service Board.

The local water utility, the El Paso Water Utilities - Public Service Board (EPWU-PSB) was considered the largest water provider at the time (70's - 80's,) and it still is. The PSB is a quasi-public organization that was created in 1952 to delegate the water and wastewater management functions to a separate and independent Board. The PSB operates and manages EPWU on behalf of the City. Its functions include but are not limited to: setting policy, adopting budgets and rates, and updating the rules and regulations which have the force of law (*EPWU, 2004*).

Historically, the Board's policy was simply that if a resident was located outside the corporate limits of the City, such a resident could simply not receive service by the Utility. Such a policy was based on several factors that included the fact that the Utility's bond covenants prohibited (and still do) the City from spending in-city rate payers funds to subsidize out of city residents. Politics also played a major role in having the City government assist County residents, and finally, the issue of cost was also a consideration given that residents receiving service would have to pay for the cost of receiving the necessary services. Given the outlying areas were located (and still are) many miles from the closest water line, it was very cost prohibitive to extend water lines to areas that lacked the necessary infrastructure.

Alternatives

Historically, there were several alternatives to addressing the lack of infrastructure within El Paso County. These included doing nothing, providing the necessary funding to have someone develop needed projects, changing the subdivision regulations and ordinances to require developers to provide the necessary infrastructure, restricting growth, creating water districts that could address water issues in these outlying areas, and developing long-term plans to address funding and technical issues. All of these options were obviously driven by local, County, State, and Federal policy makers. One obvious challenge is and has been the fact that many residents residing within these outlying areas are either not legal residents or do not have the political clout to pressure policy makers to effect a change in the status quo.

Other alternatives such as the implementation of impact fees have been suggested, to require the home buyers to pay for the cost of needed infrastructure. However, in the case of County residents, most of the homeowners have built their homes on their own in a phased approach as funding becomes available. Thus developers cannot and/or have not attempted to develop much affordable housing.

A Partial Solution

As previously noted, given the Public Service Boards historic policy in not assisting out of city residents receive water and/or wastewater service; many small water districts were created. Many of these districts lacked the resources and expertise to make a profit or provide uninterrupted service. However, no other viable alternative existed. One such example is the creation of the Lower Valley Water District. The District (LWVWD) was formed in an effort to provide water to County residents living within the lower valley of El Paso County. To date, many of these districts continue to stay in business. However, the Utility has also assisted existing Districts in dissolving their entity in an effort to provide service directly to County residents.

In 1989, the Public Service Board contracted with the Lower Valley Water District to provide water service on a wholesale basis to colonias within the District.

The Approval of a new policy

In 1990, the El Paso Water Utilities Public Service Board rescinded the policy prohibiting service to areas outside the city and prepared an initial master plan for water/wastewater services in El Paso County. Soon thereafter (1993), a colonias manager position was created and a person was hired specifically to help carry out the Utility's policy. A summary of various events that occurred following the change in policy is attached as Exhibit A.

In 1995, Governor George Bush signed Senate Bill 450 designating the PSB as the regional water and wastewater planner for El Paso County. To date, El Paso Water Utilities is the County's regional water planner responsible for planning and implementation of many water related initiatives (*EPWU, 2004*).

The EPWU-PSB began assisting outlying communities by working to eliminate inadequate private systems and soon thereafter established and expanded its jurisdiction. Since then, the EPWU has continuously managed projects to extend water and wastewater services to colonias in the Lower Valley, East El Paso, and the Upper Valley or northwest part of El Paso County.

Current Efforts

Because of the need to determine current conditions and assess the number of residents without services, in 2002, the El Paso Water Utilities, El Paso County, and the Border Environment Cooperation Commission (BECC) undertook the development of a Master Plan. This plan now serves as a means for addressing the lack of water and wastewater service that still remains in outlying areas. Some highlights of the Plan as shown below, include a description of the percentage of residents that are not yet connected to a public water system, the cost for providing service to these areas, and the phase (10 year intervals) within which improvements are proposed.

Existing Conditions

- Water
 - 3.36% of population unserved by community water system
- Wastewater
 - 34.4% of population unserved by community sewer system

Proposed Project Phasing/Cost

- Water
 - Phase I: 2003 to 2012/\$24.14 Million
 - Phase II: 2013 to 2022/\$17.3 Million
 - Beyond Phase II/\$62.6 Million
- Wastewater
 - Phase I: 2003 to 2012/\$60.0 Million
 - Phase II: 2013 to 2022/\$47.1 Million
 - Beyond Phase II/\$35.10 Million

Addressing Public Needs

The issue of providing water and/or wastewater service to residents throughout El Paso County has always been a contentious, political, and public right issue that has and continues to be at the forefront of many political debates. Nevertheless, the provision of the necessary infrastructure is considered a substantive policy whereby the government is asked to do something for its citizens. The issue of allocating public dollars or even having the public dollars to allocate to infrastructure projects has also been a point of contention between residents in these outlying areas and policy makers. This debate is centered on whether to allow continuous uncontrolled growth and address the needs of the existing population versus placing restrictions in how growth should occur through the implementation of sound planning principles, and providing the needed funding to areas where it is feasible to do so.

Until 1989, the plight of colonias in Texas went largely unheeded, but since then bi-annual Texas legislatures have undertaken a number of important policy considerations. Recent research has begun to identify and press for a second wave of public sector response, targeting a number of policy arenas. Several of these areas began to be addressed in the 76th Legislature (Spring 1999). (*Ward and Carew, 2001*).

Conclusion

The change in policy did not just occur on its own; instead it was the result of a lot of public and political pressure. The decision to change the policy came about over a long period of time in which increased public health concerns were on the rise and a demand for public action was strongly urged by many activist groups. The policy outcomes which focus on a policy's societal consequences can be said, has resulted in numerous positive impacts to the residents, City, State, and others. Residents obviously benefited by receiving the service; the local, County, State, and Federal governments will benefit by providing a public service that will have numerous improvements in the quality of life to its residents, and thus result in tax paying citizens that can ensure that many policy makers continue to stay in office.

There is clearly no single process by which policies are developed. Given many conditions, be they political, economic, social, cultural, etc., are policies considered, supported, approved, and/or implemented. It is clearly necessary to follow the planning process of agenda setting, formulation, adoption, implementation, and evaluation to ensure that a policy is presented and carried out in such a fashion as to improve its success.

It is important to note that there are political, economic and social benefits that could occur from the change in policy discussed throughout this report. Although it is possible to formulate and consider policies that will result in the most common good for the greatest number of people, policy makers at times also seek to change policies for what could result as a political gain for them.

The efforts to extend needed infrastructure to County residents has resulted in a considerable amount of the County's population now receiving water service that only 4-5 years ago were without running water. To date, over 106,000 residents have water service within the County, with an even more impressive statistic of only 3,600 residents not yet being connected to a public water system. Given that just 8-10 years ago most of these 100,000+ residents in the County were without service, the success can be measured by how the change in policy has resulted in a better quality of life.

As noted in this report, a great deal of progress has been made in providing water and wastewater services to colonia residents. Admittedly more can be done, but such efforts must occur in a carefully planned manner. Although existing conditions are not considered to be those of a third world country, the progress made and solutions achieved can be considered first world solutions.

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Exhibit A

Summary of the History of the El Paso County Water & Wastewater Service Plan

Background Information (Colonias Program)

- 1989 PSB contracts with Lower Valley Water District to provide services to colonias within the district.
- 1990 PSB rescinds policy prohibiting service to areas outside the city and prepares initial master plan for water/wastewater services in El Paso County (beyond the city limits).
- 1993 PSB begins:
 - making arrangements to eliminate inadequate private systems and establish or expand the jurisdiction of water districts or authorities that can be responsible for applying for and obtaining funding.
 - managing projects to extend water and wastewater services are being extended to colonias in Lower Valley, East El Paso, Upper Valley.
- 1995 Gov. George Bush signs Senate Bill 450 designating the PSB as the regional water and wastewater planner for El Paso County.
- 1997 By end of year, projects managed by PSB have provided:
 - water connections to 49,300 colonias residents.
 - wastewater connections to 49,300 colonias residents.
- 2000 PSB/El Paso County begin to update service plan to identify and document existing conditions:
 - identify conditions/needs.
 - define implementable water/wastewater projects.
 - facilitate water/wastewater service.
 - road map for meeting/managing grown on a regional basis.
 - basis for funding projects.

Funding by BECC

Data Gathering

- Data gathered in four geographic areas.
 - Upper Valley
 - East Montana
 - Horizon
 - Lower Valley
- Four workshops to obtain stakeholder input are held

Existing Conditions (August 2003)

- Water
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Proposed Project Phasing/Cost

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 - Beyond Phase II/\$35.10 Million

Regionalization

- Advantages
 - reduced service costs
 - improved service
 - services not otherwise available
- City/County Collaboration
 - mitigation of planning, distribution and management issues

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